

CHAPTER 24

REDUCTION IN FORCE

Section I - General

1-1. 32 USC 709(f) excludes National Guard technicians from coverage by sections 2108 (Veteran's Preference) and 3502 (Order of Retention) of Title 5 USC. All policy and instructions necessary to conduct a reduction in force are contained in this chapter and apply to both military and competitive technicians. The decision on whether a reduction in force is necessary and when it will be implemented are management decisions of each State Adjutant General, unless directed by the National Guard Bureau. Each Adjutant General is responsible for implementing the provisions of this chapter and ensuring that the following requirements are part of every reduction in force:

Requirement 1	Designation of competitive areas and levels.
Requirement 2	Establishment of retention registers.
Requirement 3	Order of release from competitive levels.
Requirement 4	Placement offers.
Requirement 5	Issuance of specific notices.
Requirement 6	Outplacement action.
Requirement 7	Maintenance of records and files.

1-2. National Guard Bureau Technician Personnel Regulation 300(351) contains the regulatory requirements for conducting a reduction in force, and applies to both excepted and competitive military technicians; therefore, unless otherwise specified, the term "technician" as used in this regulation applies to both excepted and competitive employees.

1-3. While AL-HRO is responsible for administering the provisions of TPR300 (351), it is incumbent upon each manager and supervisor to be cognizant of the contents of this chapter.

Section II - Management Aspects Of Reduction In Force

2-1. Use of Reduction in Force Procedures.

a. A reduction in force occurs when a technician is released from his/her competitive level by separation, change to lower grade, furlough for more than 30 days, or reassignment involving displacement of another technician. Such action may be due to a lack of work or funds, a reorganization, transfer of function, or the need to make room for a technician exercising restoration rights. However, the fact that a technician's position is being abolished does not mean that a reduction in force will always be necessary. Any time an affected technician can be reassigned to a vacant Position at the same grade or representative rate, a reduction in force will not be required. Every effort should be made to avoid the need for a reduction in force by considering normal attrition, organizational adjustments, restricting recruitment, employee-requested downgrades, and management directed reassignments.

b. The following actions are not considered reduction in force situations:

- (1) Separation of technicians who fail to accompany a transfer of function
- (2) Management reassignments of technicians to vacancies at the same grade or representative rate.
- (3) Termination of temporary technicians.
- (4) Downgrades as a result of reclassification.
- (5) Termination of temporary promotions.
- (6) Elimination of problem employees. Actions should be taken in accordance with TPM 430 or through disciplinary/adverse action procedures as appropriate.
- (7) Furloughs of 30 days or less.

2-2. HRO Responsibilities in a Reduction in Force.

a. One of the most important aspects of a reduction in force is proper planning. Such planning, done effectively, can decrease the number of administrative problems and may lessen the adverse impact of a reduction in force by reducing the number of actual separations. Many of the actions involved in such planning can take place simultaneously and may include the following:

- (1) Meeting individually with labor organizations to explain the need for a reduction in force and procedures to be used.

(2) A total freeze on all vacancies or promotion actions, except for positions that must be filled due to mission necessity.

(3) Providing briefings to keep the technician workforce informed.

(4) Assuring that applicable regulations are available for management and technician review.

(5) Reviewing criteria to determine need for a major reduction in force and to provide retirement counseling.

(6) Developing an aggressive placement program to include contact with other States, local Federal activities, local government, and private employers.

b. Vacant positions used for placement are those technician positions that have been identified and are funded for use in the reduction in force. The National Guard Bureau encourages each Adjutant General and his staff to take aggressive placement action during every reduction in force. This means that when a reduction in force becomes necessary, all recruitment action should stop until a review can be made to determine which vacancies will be needed for placement of technicians who might otherwise be separated. However, those positions which will not be used in the placement program may continue to be announced and filled. Also, positions that would result in promotions for technicians must be filled through merit placement procedures. In situations where there are large numbers of technicians eligible for the new higher graded positions, areas of consideration may be limited if there is no conflict with merit placement plans and union contracts.

c. Grade and Pay Retentions are designed to minimize the economic loss an employee may suffer from a change to a lower grade.

d. An employee placed in a lower graded position because of reduction-in-force or reclassification may be eligible for grade and/or pay retention. An employee who is eligible for grade retention may also be eligible for pay retention.

2-3. **Use of Furloughs.**

a. The use of furloughs in lieu of separations will only be used when a reduction in force is temporary and there is a definite indication that affected technicians will be recalled within 6 months. This regulation only applies to furloughs that exceed 30 calendar days (if consecutive) or 22 workdays (if discontinuous) during the period of 6 months starting from the first day that the furlough is to be effected. Furloughs of 30 days or less are covered by non-disciplinary adverse action procedures. Technicians who are placed on furlough rather than being separated are to report back to duty on the date specified unless recalled earlier. When it becomes possible to recall some technicians earlier than anticipated, they must be recalled in the order of their retention standing beginning with the highest standing technician.

b. If the situation changes so that furloughed technicians cannot be recalled to duty or extended, a new reduction in force notice must be issued at least 60 days before separation.

c. If a furloughed technician refuses or does not respond to a call to return to duty, he will be terminated on the specified date of return for duty without a new notice. The technician's original notice will provide him with this information and will serve as a 30-day notice of separation.

Section III - Competitive Areas And Levels (Requirement 1)

There are two major elements used in a reduction in force that must be established before any action is taken: the designation of competitive areas and identification of competitive levels.

3-1. Competitive Areas.

A competitive area is the area within which technicians compete during a reduction in force and is described geographically, organizationally, or a combination of both. The competitive area must be large enough to permit adequate competition among technicians and limited enough to be administratively manageable. In order to reduce confusion at the time of a reduction in force, competitive areas should be designated prior to a reduction in force whenever possible. However, due to the many factors relating to conversion, reorganization, etc. within the Army and Air National Guard, predetermination of competitive areas may not always be possible. Therefore, competitive areas must be reviewed again at the time a State receives notification of an action requiring a reduction in force. States must also brief the recognized labor organizations regarding the competitive areas and the procedures that will be followed as soon as a reduction in force is indicated.

3-2. Competitive Levels

The other important element in a reduction in force is the assignment of positions to competitive levels. Whenever possible, these should be established and recorded prior to a reduction in force, with only a minor review necessary at the time of a reduction in force. A competitive level consists of all positions within a competitive area, which are in the same grade, same service (excepted or competitive); and are so alike in qualification requirements, duties, and responsibilities that the incumbents can be moved from one position to another without undue interruption to the work program. Although establishing competitive levels is the responsibility of the HRO, management participation may be required for certain specialized positions. When designating competitive levels, the following factors must be taken into consideration:

a. Only those qualification and military requirements established for the position may be considered. However, the military readiness of the organization must be taken into consideration when setting up competitive levels, and the criteria used should not interrupt or affect the military mission of the organization.

- b. Separate competitive levels are required within the same series and grade and within the same trade or occupation when differences exist that are significant in recruitment, training, or areas of assignment; for example, an electronics mechanic (radar) and an electronics mechanic (power equipment).
- c. Positions may not be assigned to competitive levels on the basis of the sex of the incumbents unless the jobs involve combat units where a woman could not be assigned militarily.
- d. A competitive level may consist of only one position when that position is not interchangeable or similar to other positions.
- e. Technicians in positions requiring military membership will not be placed in the same competitive level as those not requiring military membership.
- f. Supervisory positions will not be placed in the same competitive level as non-supervisory positions.

Section IV - Establishment Of Retention Registers (Requirement 2)

4-1. A retention register must be established before releasing competing technicians from their competitive level. The register shows competing technicians in descending order starting with the technician with the highest score first. The retention register documents any action being taken and is required in every reduction in force, even when the released technician occupies the only position in the competitive level. In preparing the register, use NGB Form 351-1, Retention Register.

4-2. When establishing the register, list all competing technicians in descending order by tenure groups I, II, and III. The technician's correct tenure is shown in item 7 of the SF 50. Group I includes technicians under career/permanent appointments who are not serving probation or trial periods; group II includes technicians serving probation or trial periods; group III includes all technicians with indefinite appointments in the excepted service. Use the following criteria to determine retention standing within each tenure group:

- a. Technician performance appraisal score, 0-100 points. However, those technicians with an overall performance appraisal of unacceptable will be placed at the bottom of retention registers after tenure groups I and II are listed, regardless of the number of points they have. They may only compete with or displace other technicians with unacceptable performance appraisals.
- b. Service computation date (for ties).
- c. Technician service date (further tie breaker).

4-3. Factors that may affect a technician's retention standing and must be taken into consideration are probation/trial periods (projected dates of completion should be used), appeals, and new ratings if an appeal is processed before the effective date of the reduction in force. This means that an officially approved performance appraisal currently on file will be the one used once a reduction in force has been authorized in writing by the Adjutant General or upon direction of a reduction in force from the National Guard Bureau. Thus, receipt of a new performance appraisal will not affect the technician's retention standing in the current reduction in force. However, if a decision on an appealed performance appraisal is issued prior to the effective date of reduction in force personnel actions, the new appraisal will be used. Technicians who do not have three appraisals on file will be credited with a fully acceptable rating for any missing appraisals.

4-4. All competing technicians are listed on a retention register for a competitive level based on the positions to which they are officially assigned. This does not include positions to which technicians are temporarily promoted, reassigned, detailed, or serving under saved grade. For reduction in force processing, such technicians must be placed on the retention register according to their classified positions. Competition in a reduction in force must also include technicians on annual leave and leave without pay. Technicians on military duty with restoration rights do not compete in a reduction in force that occurs in their absence. Even though their former positions may be abolished, their restoration rights to another position will not be affected.

Section V - Order of Release From Competitive Levels

5-1. **Order of Release.** When a reduction in force requires the release of one or more competing technicians from a competitive level, all technicians in group III are selected for release before any in group I or II, and all in group II before any in group I. In each group, technicians are selected for release in the order of their retention score, beginning with the lowest score.

5-2. **Exceptions.** In certain cases, it may be necessary to grant an exception to the normal order of release of technicians. Such exceptions should only be used in unusual situations, and will require justification to show why such action was taken. Also, higher-standing technicians must be informed whenever any lower standing technician is retained beyond the effective date of the specific notices. The following situations are examples of when such exceptions might be necessary:

a. To retain a technician who is covered by the 6-month or 1-year retention period following military duty.

b. To retain a technician who is given a new 60-day notice due to action more severe than specified in the original notice.

c. To allow for completion of a special project or assignment for 90 days or less, depending on funding and manpower restrictions. (This exception is justified only in unusual

cases where projects or assignments were already started at the time of a reduction in force, and a higher standing technician could not take over the duties.)

5-3. **Tie.** A tie occurs when two or more technicians in the same group have the same retention score. When one or more but not all tied technicians must be released from their competitive level, the tie will be broken by determining which technician has the earliest service computation date. If necessary, a further tie breaker will be a technician's service date.

Section VI - Determination Of Placement Offers (Requirement 4)

6-1. Placement Offers.

a. Each register containing more than one name will list the technicians by tenure group and then by their retention scores to determine their standing. At this point, all technicians who were released from their competitive levels and have not been assigned to vacant technician positions at the same grade or representative rate will be offered a technician position using the following sequence: First, through competition for occupied positions at the same grade or representative rate, the technician may be offered a position and may displace the technician who currently occupies that position. Second, if there are no technician vacancies at the next lower grade, technicians then compete across competitive lines for occupied positions at lower grades or representative rates. Although this procedure may often cause a chain reaction within the competitive area, qualified technicians must be given this opportunity, if there are no vacancies at the next lower grade.

b. Technicians may not be offered positions with a grade or representative rate higher than their current position. Technicians are only entitled to one offer. This offer will be the occupied position they successfully competed for or a vacant technician position at a lower grade, if available. Those technicians who reject the offer or fail to reply to the offer within the specified time limit, must be separated. All technicians who cannot be placed will also be separated at the expiration of their 60-day specific notice.

6-2. Qualifications.

a. When competing for occupied technician positions, technicians must be fully qualified. This means they must meet all technician qualifications for the position in addition to compatible military requirements for excepted positions. Thus, in order to displace another technician through competition, a technician must be as well qualified for the job as if he/she had already performed successfully in a similar position, and must be able to keep the work moving without serious interruption.

b. When a technician is being offered a vacant technician position at the same or lower grade, certain qualifications may be waived when it appears that the technician has the capacity, adaptability, and basic skills required by the position. Qualifications should only be waived for

vacant positions at the same or lower grades when a minimum amount of retraining will bring the technician to an acceptable level of performance as soon as possible without delaying the work to be accomplished.

c. Although some qualifications may be waived for vacant positions, technicians placed through reduction in force must be placed in military positions that meet the compatibility criteria and military appointment requirements established by the National Guard Bureau.

Section VII - Reduction In Force Notices (Requirement 5)

7-1. General Notices.

When it cannot be determined what specific personnel actions will take place during a reduction in force, general notices may be issued. A general notice informs a technician that a reduction in force action may be necessary, but that the State has not determined a specific action in his case. A general notice must be supplemented by a specific notice before a technician can be released from his competitive level. The general notice will expire on a given date, unless it is renewed or supplemented by a specific notice.

7-2. Specific Notices.

a. Before releasing a technician from his competitive level, he must be given a specific notice that states clearly what action will be taken and the effective dates. The technician must receive the specific notice at least 60 full days before the date of his release. In counting the 60-day minimum notice period, a State may not count a Saturday, Sunday, or legal holiday as the last day of the period, but must postpone the effective date of the action until the next business day. Nor may specific notices be issued or made effective during the period 15 December through 3 January.

b. A specific notice expires when it is followed by the action it specifies. When it becomes necessary to take action more severe than originally specified, a new 60-day notice must be issued. When possible, the technician should remain in a duty and pay status during the notice period. With his consent, he may be placed on annual leave, compensatory time off, leave without pay, or approved sick or military leave. However, in an emergency, when the State lacks work or funds for all or part of the notice period, the technician may be placed in a non-pay status without his consent.

7-3. Required Information for a Specific Notice. The following is a list of required information to be included in various specific notices of reduction in force. When preparing these notices, select the appropriate items for the required action:

- a. Reason for the reduction in force.

- b. Specific action to take place (separation, furlough, offer of change to lower grade, etc.).
- c. Title, grade, and salary of current position.
- d. Competitive area and competitive level designated.
- e. Service computation date, technician service date, and retention rating.
- f. The position title, grade, salary, and location of any position offer or the reason why no offer can be made. Also, include the military grade requirements.
- g. Reasons for any exceptions to retention order.
- h. Effective date of proposed action (none during 15 December through 3 January).
- i. Where the technician may review retention registers and reduction in force regulations and who to contact for additional information.
- j. Appeal rights, how to file them, and any time limits.
- k. A clear explanation of the technician's grade and/or pay retention entitlements.
- l. Severance pay eligibility.
- m. Placement information and eligibility for reemployment priority list.
- n. Discontinued service retirement eligibility.
- o. A request for the technician to acknowledge receipt of the notice and to accept or decline any offer.

Section VIII - Outplacement Action (Requirement 6)

8-1. **DoD Placement Program.** The following action must be taken when technicians who previously held competitive/excepted appointments and have career status are affected by reduction in force or a transfer of function:

- a. Interview the affected technicians to determine if they want placement assistance under the DoD priority placement programs.
- b. If the technicians wish assistance and there is an adjacent or nearby DoD installation, request the civilian personnel office of the installation provide necessary counseling and regis-

tration assistance. (The registering DoD installation will maintain necessary records and will be the intermediary for any placement offers received.)

c. If there is no adjacent or nearby DoD installation, contact the DoD placement coordinator in the geographic zone in which the displaced technicians are located. The placement coordinator will make necessary arrangements for counseling and registration.

8-2. **Priority Placement.** All technicians entitled to grade retention as a result of reduction in force will be afforded priority placement for vacant positions. Such placement action will be in accordance with the DoD and OPM priority placement programs. Priority placement actions will precede any efforts for placement from a reemployment priority list.

8-3. **Reemployment Priority List.** A reemployment priority list must be maintained for tenure groups I and II technicians separated by reduction in force. Technicians on the list are given consideration for vacant positions for which they are fully qualified. After separation as the result of a specific notice of separation, technicians will be placed on this list, but only if they do not resign, retire or decline an offer that preserves a non-temporary, full-time position in their present grade, step, or equivalent salary. Technicians will remain on this list for 2 years, unless they decline in writing, accept a full-time position, or decline the offer of a full-time position in the Federal Government.

Section IX - Maintenance of Records and Files (Requirement 7)

The maintenance and disposition of all reduction in force records and files will be in accordance with AR 340-18-8. These files should contain all records necessary to reconstruct the reduction in force and show how retention standings and personnel actions were completed. The files should include the Adjutant General or National Guard Bureau authorization for a reduction in force, any manpower documents used, retention registers, copies of general and specific notices, and any other related documents. The entries in the remarks column of each register should show what action was taken for each technician.